

7 CFR Part 1260**[No. LS-95-012]****Technical Amendments to the Beef Promotion and Research Order and Rules and Regulations****AGENCY:** Agricultural Marketing Service, USDA.**ACTION:** Final rule and Termination Order.

SUMMARY: A review of the Beef Promotion and Research Order (Order) and rules and regulations implementing the beef promotion and research program identified a number of changes to eliminate sections which are duplicative or obsolete and will avoid current and future conflict. The revisions eliminate certain sections dealing with membership on the Cattlemen's Beef Promotion and Research Board (Board), obtaining refunds, and other miscellaneous provisions.

EFFECTIVE DATE: December 28, 1995.

FOR FURTHER INFORMATION CONTACT: Ralph L. Tapp, Chief, Marketing Programs Branch, Room 2606-S; Livestock and Seed Division, AMS, USDA; P.O. Box 96456; Washington, DC. 20090-6456; telephone 202/202-1115.

SUPPLEMENTARY INFORMATION: This rule amends the Order and Rules and Regulations (7 CFR part 1260). The Order and regulations are effective under the Beef Promotion and Research Act of 1985 (Act).

This regulatory action is being taken as part of the National Performance Review program to eliminate unnecessary regulations and improve those that remain in force.

Executive Orders 12866 and 12778 and the Regulatory Flexibility Act

This rule has been determined to be not significant for purposes of Executive Order 12866 and therefore has not been reviewed by the Office of Management and Budget (OMB).

This rule was reviewed under Executive Order 12778, Civil Justice Reform. It is not intended to have a retroactive effect. This rule would not preempt any State or local laws, regulations, or policies unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 11 of the Act, a person subject to the Order may file a petition with the Secretary stating that the Order, any provision of the Order, or any obligation

imposed in connection with the Order, is not in accordance with law and requesting a modification of the Order or an exemption from the Order. The petitioner is afforded the opportunity for a hearing on the petition. After a hearing, the Secretary would rule on the petition. The Act provides that the district courts of the United States in any district in which such person is an inhabitant, or has his principal place of business, has jurisdiction to review the Secretary's ruling on the petition, if a complaint for that purpose is filed within 20 days after the date of the entry of the ruling.

Effect on Small Entities

The Administrator of the Agricultural Marketing Service (AMS) has determined that this rule will not have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), because the changes are primarily to remove obsolete and duplicate material.

Paperwork Reduction

Information collection requirements and recordkeeping provisions contained in 7 CFR part 1260 have been previously approved by OMB and assigned OMB Control No. 0581-0093 under the Paperwork Reduction Act of 1980.

No additional recordkeeping requirements are imposed as a result of this rule.

Background and Proposed Changes

A review of the Order and regulations was conducted in response to the President's Regulatory Review Initiative of March 4, 1995. As a result, a number of paragraphs were identified that could be removed without adverse impact to the program. The amendments eliminate sections which are duplicative or obsolete or will avoid conflicting information.

Sections which are obsolete or are duplicated in other sections involve initial membership on the Board (§ 1260.580 and § 1260.590). Other sections (§ 1260.150, 151, 173, 174, and 181) originally implemented a statutory provision allowing producers to request refunds prior to the May 1988 referendum and provided for establishing escrow accounts to pay refunds. These sections became obsolete after a referendum in which producers voted in favor of mandatory assessments.

A definition which is obsolete as a consequence of removing the sections it pertains to is: Referendum (§ 1260.110).

After consideration of all relevant material with regard to the removal of

the provisions as hereinafter set forth, it is found that these provisions no longer tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined that, upon good cause, it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice or to engage in further public procedure prior to implementing this action because: The sections being removed are either duplicative or obsolete and removal will not alter any aspect of the program.

List of Subjects in 7 CFR Part 1260

Advertising, Agricultural research, Imports, Marketing agreements, Meat and meat products, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 1260 is amended as follows:

PART 1260—BEEF PROMOTION AND RESEARCH

1. The authority citation for part 1260 is revised to read as follows:

Authority: 7 U.S.C. 2901-2911.

2. In part 1260, §§ 1260.110, 1260.150(i) and (j), 1260.151(c), 1260.173, 1260.174, 1260.181(b)(5), 1260.580, and 1260.590 are removed and reserved.

§§ 1260.110, 1260.173, 1260.174, 1260.580, and 1260.590 [Removed and reserved]

§§ 1260.150, 1260.151, and 1260.181 [Amended]

Dated: November 20, 1995.

Lon Hatamiya,
Administrator.

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NATIONAL CREDIT UNION ADMINISTRATION**12 CFR Parts 701, 705 and 741****Requirements for Insurance and Technical Amendments**

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule.

SUMMARY: The final rule consolidates all current regulations and requirements that apply to federally insured state-chartered credit unions (FISCUs) in one place, the regulations on requirements for insurance. The rule does not impose any new requirements on FISCUs. This rule will aid FISCUs by simplifying the process of determining which regulations they must follow.

EFFECTIVE DATE: January 29, 1996.

FOR FURTHER INFORMATION CONTACT: Linda Groth, State Program Officer, Office of Examination and Insurance, at the above address or telephone (703) 518-6360 or Mary Rupp, Staff Attorney, Office of General Counsel, at the above address or telephone (703) 518-6540.

SUPPLEMENTARY INFORMATION:

Background

In August 1995, the NCUA requested comments on proposed changes to part 741 of its regulations. 60 FR 39274 (August 2, 1995). Part 741 applies to all credit unions whose accounts are insured by the National Credit Union Share Insurance Fund (NCUSIF). It applies to federal credit unions (FCUs), FISCUs and credit unions making application for insurance of accounts. Part 741 also serves as a reference for FISCUs in determining which NCUA rules apply to them. Some regulations that apply to FISCUs, however, are not currently included or referenced in part 741. Additionally, the Agreement for Insurance of Accounts, which outlines conditions for state-chartered credit unions obtaining and maintaining federal insurance, contains requirements that are not included in part 741. This final rule corrects those shortcomings by addressing, in part 741, all regulations and requirements that apply to FISCUs. This revision will aid FISCUs by simplifying the process of determining which regulations they must follow. The revision does not impose any additional requirements or new burdens on FISCUs.

Additionally, the revision reorganizes part 741 into subparts A and B. Subpart A contains requirements that apply to all insured credit unions and are not codified elsewhere in NCUA's regulations. Subpart B contains requirements that are set forth in various other parts of NCUA's regulations affecting FCUs and that are, by incorporation in part 741, applicable to FISCUs as well.

Summary of Comments

Two FISCUs, four trade groups and two credit union leagues responded to the proposal. Five of the commenters expressed total support for the amendments, one expressed qualified support and two objected. The supportive commenters praised the proposal because it simplifies the process for determining which regulations apply, it clarifies items not mentioned elsewhere and it deletes repetitious material. The revised index was cited by one commenter as a particularly useful tool.

One commenter took exception to the following sections of the proposal: Criteria § 741.3, Maximum Public Unit and Nonmember Accounts and Low Income Designation § 741.204, Corporate Credit Unions § 741.206, Management Official Interlocks § 741.209, Administrative Actions, Adjudicative Hearings, Rules of Practice and Procedure § 741.213, Records Preservation Program § 741.215, Truth in Savings § 741.217 and Involuntary Liquidation and Creditor Claims § 741.218. The commenter did not object to the substance of the sections. The objection was based on the misperception that NCUA is "taking more and more authority over state chartered credit unions." The NCUA Board notes that all of these provisions currently apply to FISCUs.

Two commenters took exception to the provision in proposed § 741.3 which requires FISCUs to establish an Investment Valuation Reserve Account for those investments owned by FISCUs that do not conform to NCUA's investment regulation for federal credit unions (12 CFR part 703). The reserve must equal the net excess of book value over current market value. If the market value cannot be determined, a reserve equal to the full book value must be reserved. One commenter maintained that this places an undue burden on state-chartered credit unions that are following state law. Further, the commenter argued it will be costly, difficult and time consuming. The commenters also questioned the practice of "incorporating contractual terms and conditions into a regulation." The commenters are apparently under the misimpression that this is a new requirement being imposed on FISCUs. For safety and soundness reasons, this requirement is and for many years has been, imposed on FISCUs by the Agreement for Insurance of Accounts signed and agreed to all insured state chartered credit unions as a condition of federal insurance.

Final Rule

The NCUA Board adopts without change the proposed rule published on August 2, 1995, as the final rule. 60 FR 39274. Further, the Board is making technical corrections to Sections 701.6, 701.21(a), 701.23(b)(2)(iii) and 705.3. These sections reference part 741 and must be revised to reflect the redesignated section numbers in part 741. Since these changes are housekeeping and do not have any substantive effect on credit unions, the Board finds it unnecessary to either issue a proposed rule or delay the rule's effective date.

Regulatory Procedures

Regulatory Flexibility Act

The Regulatory Flexibility Act requires NCUA to prepare an analysis to describe the significant economic impact any proposed regulation may have on a substantial number of small credit unions (primarily those under \$1 million in assets). The final rule is a compilation of existing regulations and requirements already in place for FISCUs. It does not add any additional requirements or burden. Accordingly, the NCUA Board has determined and certifies under the authority granted in 5 U.S.C. 605(b) that the final rule, if adopted, will not have a significant economic impact on a significant number of small credit unions and that a Regulatory Flexibility Act analysis is not required.

Paperwork Reduction Act

The final rule does not impose any new paperwork requirements.

Executive Order 12612

The final rule does not make any substantive changes. Therefore, no new analysis of part 741's effect on state interests is required.

List of Subjects in 12 CFR Parts 701, 705 and 741

Bank deposit insurance, Credit unions, and Reporting and recordkeeping requirements.

By the National Credit Union Administration Board on November 16, 1995.
Becky Baker,
Secretary of the Board.

Accordingly, NCUA amends 12 CFR chapter VII as follows:

PART 701—ORGANIZATION AND OPERATION OF FEDERAL CREDIT UNIONS

1. The authority citation for part 701 continues to read as follows:

Authority: 12 U.S.C. 1752(5), 1755, 1756, 1757, 1759, 1761a, 1761b, 1766, 1767, 1782, 1784, 1787, 1789 and Public Law 101-73. Section 701.6 is also authorized by 31 U.S.C. 3717. Section 701.31 is also authorized by 12 U.S.C. 1601, *et seq.*, 42 U.S.C. 1981 and 42 U.S.C. 3601-1610. Section 701.35 is also authorized by 12 U.S.C. 4311-4312.

2. Section 701.6 is amended by revising paragraph (d)(4) to read as follows:

§ 701.6 Fees paid by Federal credit unions.

* * * * *

(d) * * *

(4) If a credit union makes a combined payment of its operating fee and its share insurance deposit as provided in

§ 741.4 of this chapter and such payment is delinquent, only one administrative fee will be charged and interest will be charged on the total combined payment.

3. Section 701.21(a) is amended by revising the fourth sentence to read as follows:

§ 701.21 Loans to members and lines of credit to members.

(a) * * * Also, while § 701.21 generally applies to Federal credit unions only, its provisions may be used by state-chartered credit unions with respect to alternative mortgage transactions in accordance with 12 U.S.C. 3801 *et seq.*, and certain provisions apply to loans made by federally insured state-chartered credit unions as specified in § 741.203 of this chapter. * * *

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4. Section 701.23 is amended by revising paragraph (b)(2)(iii) to read as follows:

§ 701.23 Purchase, sale, and pledge of eligible obligations.

* * * * *

(b) * * *

(2) * * *

(iii) for purchases under paragraph (b)(1)(ii) of this section, any advance written approval required by § 741.8 of this chapter is obtained before consummation of such purchase.

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PART 705—COMMUNITY DEVELOPMENT REVOLVING LOAN PROGRAM FOR CREDIT UNIONS

5. The authority citation for part 705 continues to read as follows:

Authority: Public Law 97-35, 42 U.S.C. 9822; Public Law 99-609, note to 42 U.S.C. 9822; Public Law 101-144, 12 U.S.C. 1766(k).

6. Section 705.3 is amended by revising paragraph (b) to read as follows:

§ 705.3 Definitions.

* * * * *

(b) For purposes of this part, a “participating credit union” means a state- or federally-chartered credit union that is specifically involved in stimulation of economic development activities and community revitalization efforts aimed at benefiting the community it serves; whose membership consists of predominantly low-income members as defined in paragraph (a) of this section or applicable state standards as reflected by a current low-income designation pursuant to § 701.32(d)(1) or § 741.204(b) of this chapter or, in the case of a state-chartered nonfederally

insured credit union, under applicable state standards; and has submitted an application for a loan and/or technical assistance and has been selected for participation in the Program in accordance with this part.

7. Part 741 is revised to read as follows:

PART 741—REQUIREMENTS FOR INSURANCE

Sec.

741.0 Scope.

Subpart A—Regulations That Apply to Both Federal Credit Unions and Federally Insured State-Chartered Credit Unions and That Are Not Codified Elsewhere in NCUA's Regulations

741.1 Examination.

741.2 Maximum borrowing authority.

741.3 Criteria.

741.4 Insurance premium and one percent deposit.

741.5 Notice of termination of excess insurance coverage.

741.6 Financial and statistical and other reports.

741.7 Conversion to a state-chartered credit union.

741.8 Purchase of assets and assumption of liabilities.

741.9 Uninsured membership shares.

741.10 Disclosure of share insurance.

Subpart B—Regulations Codified Elsewhere in NCUA's Regulations as Applying to Federal Credit Unions That Also Apply to Federally Insured State-Chartered Credit Unions

741.201 Minimum fidelity bond requirements.

741.202 Audit and verification requirements.

741.203 Minimum loan policy requirements.

741.204 Maximum public unit and nonmember accounts, and low-income designation.

741.205 Reporting requirements for credit unions that are newly chartered or in troubled condition.

741.206 Corporate credit unions.

741.207 Community development revolving loan program for credit unions.

741.208 Mergers of federally insured credit unions: voluntary termination or conversion of insured status.

741.209 Management official interlocks.

741.210 Central liquidity facility.

741.211 Advertising.

741.212 Share insurance.

741.213 Administrative actions, adjudicative hearings, rules of practice and procedure.

741.214 Report of crime or catastrophic act and Bank Secrecy Act compliance.

741.215 Records preservation program.

741.216 Flood Insurance.

741.217 Truth in savings.

741.218 Involuntary liquidation and creditor claims.

Authority: 12 U.S.C. 1757, 1766, and 1781-1790.

Section 741.4 is also authorized by 31 U.S.C. 3717.

§ 741.0 Scope.

The provisions of this part apply to federal credit unions, federally insured state-chartered credit unions, and credit unions making application for insurance of accounts pursuant to Title II of the Act, unless the context of a provision indicates its application is otherwise limited. This part prescribes various requirements for obtaining and maintaining federal insurance and the payment of insurance premiums and capitalization deposit. Subpart A of this part contains substantive requirements that are not codified elsewhere in this chapter. Subpart B of this part lists additional regulations, set forth elsewhere in this chapter as applying to federal credit unions, that also apply to federally insured state-chartered credit unions. As used in this part, “insured credit union” means a credit union whose accounts are insured by the National Credit Union Share Insurance Fund (NCUSIF).

Subpart A—Regulations that Apply to Both Federal Credit Unions and Federally Insured State-Chartered Credit Unions and That are not Codified Elsewhere in NCUA's Regulations

§ 741.1 Examination.

As provided in Sections 201 and 204 of the Act (12 U.S.C. 1781 and 1784), the NCUA Board is authorized to examine any insured credit union or any credit union making application for insurance of its accounts. Such examination may require access to all records, reports, contracts to which the credit union is a party, and information concerning the affairs of the credit union. Upon request, such documentation must be provided to the NCUA Board or its representative. Any credit union which makes application for insurance will be required to pay the cost of such examination and processing. To the maximum extent feasible, the NCUA Board will utilize examinations conducted by state regulatory agencies.

§ 741.2 Maximum borrowing authority.

Any credit union which makes application for insurance of its accounts pursuant to Title II of the Act, or any insured credit union, must not borrow, from any source, an aggregate amount in excess of 50 per centum of its paid-in and unimpaired capital and surplus (shares and undivided earnings, plus net income or minus net loss).

§741.3 Criteria.

In determining the insurability of a credit union which makes application for insurance and in continuing the insurability of its accounts pursuant to Title II of the Act, the following criteria shall be applied:

(a) *Adequacy of reserves* (1) *General rule.* State-chartered credit unions must meet, at a minimum, the statutory reserve and full and fair disclosure requirements imposed on federal credit unions by Section 116 of the Act and part 702 of this chapter.

(2) *Charges against reserves.* State-chartered credit unions may charge losses, including losses other than loan losses, against the statutory reserve in accordance with either state law or procedures established by the state supervisory authority. However, charges for losses other than loan losses shall be made only after notification to the Regional Director, unless the credit union's ratio of capital to assets is greater than 6 percent and the charge reduces the ratio by no more than $\frac{1}{2}$ percent. For purposes of this section, capital is defined as the total of the Regular Reserve, the Allowance for Loan Losses, the Allowance for Investment Losses, Undivided Earnings, and other reserves.

(3) *Special reserve for nonconforming investments.* State-chartered credit unions (except state-chartered corporate credit unions) are required to establish an additional special reserve for investments if those credit unions are permitted by their respective state laws to make investments beyond those authorized in the Act or the NCUA Rules and Regulations. For any investment other than loans to members and obligations or securities expressly authorized in Title I of the Act and part 703 of this chapter, as amended, state-chartered credit unions (except state-chartered corporate credit unions) are required to establish and maintain at the end of each accounting period and prior to payment of any dividend, an Investment Valuation Reserve Account in an amount at least equal to the net excess of book value over current market value of the investments. If the market value cannot be determined, an amount equal to the full book value will be established. When at the end of any dividend period, the amount in the Investment Valuation Reserve exceeds the difference between book value and market value, the board of directors may authorize the transfer of the excess to Undivided Earnings.

(b) *Financial condition and policies.* The following factors are to be considered in determining whether the

credit union's financial condition and policies are both safe and sound:

(1) The existence of unfavorable trends which may include excessive losses on loans (i.e., losses which exceed the regular reserve or its equivalent [in the case of state-chartered credit unions] plus other irrevocable reserves established as a contingency against losses on loans), the presence of special reserve accounts used specifically for charging off loan balances of deceased borrowers, and an expense ratio so high that the required transfers to reserves create a net operating loss for the period or that the net gain after these transfers is not sufficient to permit the payment of a nominal dividend;

(2) The existence of written lending policies, including adequate documentation of secured loans and the protection of security interests by recording, bond, insurance, or other adequate means, adequate determination of the financial capacity of borrowers and co-makers for repayment of the loan, and adequate determination of value of security on loans to ascertain that said security is adequate to repay the loan in the event of default;

(3) Investment policies which are within the provisions of applicable law and regulations, i.e., the Act and part 703 of this chapter for federal credit unions and the laws of the state in which the credit union operates for state-chartered credit unions, except state-chartered corporate credit unions. State-chartered corporate credit unions are permitted to make only those investments that are in conformance with part 704 of this chapter and applicable state laws and regulations;

(4) The presence of any account or security, the form of which has not been approved by the Board, except for accounts authorized by state law for state-chartered credit unions.

(c) *Fitness of management.* The officers, directors, and committee members of the credit union must have conducted its operations in accordance with provisions of applicable law, regulations, its charter and bylaws. No person shall serve as a director, officer, committee member, or employee of an insured credit union who has been convicted of any criminal offense involving dishonesty or breach of trust, except with the written consent of the Board.

(d) *Insurance of member accounts would not otherwise involve undue risk to the NCUSIF.* The credit union must maintain adequate fidelity bond coverage as specified in § 741.201. Any circumstances which may be unique to

the particular credit union concerned shall also be considered in arriving at the determination of whether or not an undue risk to the NCUSIF is or may be present. For purposes of this section, the term "undue risk to the NCUSIF" is defined as a condition which creates a probability of loss in excess of that normally found in a credit union and which indicates a reasonably foreseeable probability of the credit union becoming insolvent because of such condition, with a resultant claim against the NCUSIF.

(e) *Powers and purposes.* The credit union must not perform services other than those which are consistent with the promotion of thrift and the creation of a source of credit for its members, except as otherwise permitted by law or regulation.

(f) *Letter of disapproval.* A credit union whose application for share insurance is disapproved shall receive a letter indicating the reasons for such disapproval, a citation of the authority for such disapproval, and suggested methods by which the applying credit union may correct its deficiencies and thereby qualify for share insurance.

(g) Nothing in this section shall preclude the NCUA Board from imposing additional terms or conditions pursuant to the insurance agreement.

§741.4 Insurance premium and one percent deposit.

(a) *Scope.* This section implements the requirements of Section 202 of the Act (12 U.S.C. 1782) providing for capitalization of the NCUSIF through the maintenance of a deposit by each insured credit union in an amount equaling one percent of its insured shares and payment of an annual insurance premium.

(b) *Definitions.* For purposes of this section:

(1) *Insurance year* means the period from January 1 through December 31;

(2) *Insured shares* means the total amount of a credit union's share, share draft and share certificate accounts, or their equivalent under state law (which may include deposit accounts), authorized to be issued to members, other credit unions, public units, or nonmembers (where permitted under the Act or equivalent state law). "Insured shares" does not include amounts in excess of insurance coverage as provided in part 745 of this chapter; and

(3) *Normal operating level* means a total value of the NCUSIF equity equaling 1.3 percent of the aggregate of all insured shares in insured credit unions as of the end of the preceding insurance year, or such lower value as

established by action of the NCUA Board.

(c) *One percent deposit.* Each insured credit union shall maintain with the NCUSIF during each insurance year a deposit in an amount equaling one percent of the total of the credit union's insured shares as of the close of the preceding insurance year. The deposit amount shall be adjusted annually on a date to be determined by the NCUA Board.

(d) *Premium.* Unless waived by the NCUA Board, each insured credit union shall pay to the NCUSIF, on a date to be determined by the NCUA Board, an insurance premium for that insurance year in an amount equaling one-twelfth of one percent of the credit union's total insured shares as of the close of the preceding insurance year.

(e) *Redistribution of NCUSIF equity.* When the NCUSIF exceeds its normal operating level, the NCUA Board will, at least annually, make a proportionate adjustment for insured credit unions of the amount necessary to reduce the NCUSIF to its normal operating level. Such adjustment will be in the form determined by the NCUA Board and may include a waiver of insurance premiums, premium rebates, and/or distributions from NCUSIF equity.

(f) *Forms 1304 and 1305.* A certified copy of Form 1304 will be provided to all federally insured state-chartered credit unions and Form 1305 to all federally chartered credit unions in connection with the computation and funding of their annual premium payment and any change in their one percent deposit. Form 1305 also includes the annual operating fee. Forms 1304 and 1305 are invoices and are precalculated based on the credit union's previous year's insured shares. The forms provide for any adjustments declared by the NCUA Board, resulting in a single net transfer of funds between the credit union and the NCUA. Additional copies of each credit union's Form 1304 and 1305 may be obtained from the appropriate NCUA Regional Office.

(g) *New charters.* A newly-chartered credit union that obtains share insurance coverage from the NCUSIF during the insurance year in which it has obtained its charter shall not be required to pay an insurance premium for that insurance year. The credit union shall fund its one percent deposit on a date to be determined by the NCUA Board in the following insurance year, but shall not participate in any distribution from NCUSIF equity related to the period prior to the credit union's funding of its deposit.

(h) *Conversion to Federal insurance.* An existing credit union that converts to insurance coverage with the NCUSIF during an insurance year shall immediately fund its one percent deposit based on the total of its shares as of the close of the month prior to conversion and shall pay a premium (unless waived in whole or in part for all insured credit unions during that year) in an amount that is prorated to reflect the remaining number of months in the insurance year. The credit union will be entitled to a prorated share of any distribution from NCUSIF equity declared subsequent to the credit union's conversion.

(i) *Mergers of nonfederally insured credit unions.* Where a nonfederally insured credit union merges into a federally insured credit union, the continuing federally insured credit union shall immediately pay to the NCUSIF a prorated insurance premium (unless waived in whole or in part for all federally insured credit unions), and an additional one percent deposit based upon the increase in insured shares resulting from the merger.

(j) *Return of deposit.* Any insolvent credit union that is closed for involuntary liquidation will not be entitled to a return of its deposit. Any solvent credit union that is closed due to involuntary liquidation shall be entitled to a return of its deposit prior to final distribution of member shares. Any other credit union whose insurance coverage with the NCUSIF terminates will be entitled to a return of the full amount of its deposit immediately after the final date on which any shares of the credit union are insured, except that the NCUA Board reserves the right to delay payment by up to one year if it determines that immediate payment would jeopardize the financial condition of the NCUSIF. This includes termination of insurance due to mergers and consolidations. A credit union that receives a return of its deposit during an insurance year shall have the option of leaving a nominal sum on deposit with the NCUSIF until the next distribution from NCUSIF equity and will thus qualify for a prorated share of the distribution.

(k) *Assessment of administrative fee and interest for delinquent payment.* Each federally insured credit union shall pay to the NCUA an administrative fee, the costs of collection, and interest on any delinquent payment of its capitalization deposit or insurance premium. A payment will be considered delinquent if it is postmarked later than the date stated in the invoice provided to the credit union. The NCUA may

waive or abate charges or collection of interest, if circumstances warrant.

(1) The administrative fee for a delinquent payment shall be an amount as fixed from time to time by the NCUA Board based upon the administrative costs of such delinquent payments to the NCUA in the preceding year.

(2) The costs of collection shall be calculated as the actual hours expended by NCUA personnel multiplied by the average hourly cost of the salaries and benefits of such personnel.

(3) The interest rate charged on any delinquent payment shall be the U.S. Department of the Treasury Tax and Loan Rate in effect on the date when the payment is due as provided in 31 U.S.C. 3717.

§ 741.5 Notice of termination of excess insurance coverage.

In the event of a credit union's termination of share insurance coverage other than that provided by the NCUSIF, the credit union must notify all members in writing of such termination at least thirty days prior to the effective date of termination.

§ 741.6 Financial and statistical and other reports.

(a) Each operating insured credit union with assets in excess of \$50,000,000 shall file with the NCUA a quarterly Financial and Statistical Report on Form NCUA 5300, on or before January 22 (as of the previous December 31), April 22 (as of the previous March 31), July 22 (as of the previous June 30) and October 22 (as of the previous September 30) of each year. All other operating insured credit unions shall file with the NCUA on or before January 31 and on or before July 31 of each year a semiannual Financial and Statistical Report on Form NCUA 5300, as of the previous December 31 (in the case of the January filing) or June 30 (in the case of the July filing).

(b) Insured credit unions shall, upon written notice from the NCUA Board or Regional Director, file such financial or other reports in accordance with instructions contained in such notice.

§ 741.7 Conversion to a state-chartered credit union.

Any federal credit union that petitions to convert to a state-chartered federally insured credit union is required to apply to the Regional Director for continued insurance of its accounts and meet the requirements as stated in the Act and this part. If the application for continued insurance is not approved, such insurance will terminate subject to the conditions set forth in section 206(d) of the Act.

§ 741.8 Purchase of assets and assumption of liabilities.

(a) Any credit union insured pursuant to Title II of the Act must apply for and receive approval from the NCUA Board before either purchasing or acquiring loans or assuming or receiving an assignment of deposits, shares, or liabilities from:

(1) Any credit union that is not insured pursuant to Title II of the Act;

(2) Any other financial-type institution (including depository institutions, mortgage banks, consumer finance companies, insurance companies, loan brokers, and other loan sellers or liability traders); or

(3) Any successor in interest to any institution identified in paragraph (a)(1) or (a)(2) of this section.

(b) Approval is not required for:

(1) Purchases of student loans or real estate secured loans to facilitate the packaging of a pool of loans to be sold or pledged on the secondary market under § 701.23(b)(1) (iii) or (iv) of this chapter or comparable state law for state-chartered credit unions, or purchases of member loans under § 701.23(b)(1)(i) of this chapter or comparable state law for state-chartered credit unions; or

(2) Assumptions or receipt of deposits, shares or liabilities as rollovers or transfers of member retirement accounts or in which an NCUSIF-insured credit union perfects a security interest in connection with an extension of credit to any member.

§ 741.9 Uninsured membership shares.

Any credit union that is insured pursuant to Title II of the Act may not offer membership shares that, due to the terms and conditions of the account, are not eligible for insurance coverage. This prohibition does not apply to shares that are uninsured solely because the amount is in excess of the maximum insurance coverage provided pursuant to part 745 of this chapter.

§ 741.10 Disclosure of share insurance.

Any credit union which is insured pursuant to Title II of the Act and is permitted by state law to accept nonmember shares or deposits from sources other than other credit unions and public units (or, for low-income designated credit unions, any nonmembers), shall identify such nonmember accounts as nonmember shares or deposits on any statement or report required by the NCUA Board for insurance purposes. Immediately after a state-chartered credit union receives notice from NCUA that its member accounts are federally insured, the credit union shall advise any present

nonmember share and deposit holders by letter that their accounts are not insured by the NCUSIF. Also, future nonmember share and deposit fund holders will be so advised by letter as they open accounts.

Subpart B—Regulations Codified Elsewhere in NCUA's Regulations as Applying to Federal Credit Unions That Also Apply to Federally Insured State-Chartered Credit Unions**§ 741.201 Minimum fidelity bond requirements.**

(a) Any credit union which makes application for insurance of its accounts pursuant to Title II of the Act must possess the minimum fidelity bond coverage stated in § 701.20 of this chapter in order for its application for such insurance to be approved and for such insurance coverage to continue. A federally insured credit union whose fidelity bond coverage is terminated shall mail notice of such termination to the Regional Director not less than 35 days prior to the effective date of such termination.

(b) Corporate credit unions must comply with § 704.17 of this chapter in lieu of § 701.20 of this chapter.

§ 741.202 Audit and verification requirements.

(a) The supervisory committee of each credit union insured pursuant to Title II of the Act shall make or cause to be made an audit of the credit union at least once every calendar year covering the period elapsed since the last audit. The audit must fully meet the requirements set forth in §§ 701.12 and 701.13 of this chapter.

(b) Each credit union which is insured pursuant to Title II of the Act shall verify or cause to be verified, under controlled conditions, all passbooks and accounts with the records of the financial officer not less frequently than once every 2 years. The verification must fully meet the requirements set forth in §§ 701.12(e) and 701.13 of this chapter.

§ 741.203 Minimum loan policy requirements.

Any credit union which is insured pursuant to Title II of the Act must:

(a) Adhere to the requirements stated in § 701.21(h) of this chapter concerning member business loans, § 701.21(c)(8) of this chapter concerning prohibited fees, and § 701.21(d)(5) of this chapter concerning nonpreferential loans. State-chartered, NCUSIF-insured credit unions in a given state are exempt from these requirements if the state regulatory authority for that state adopts substantially equivalent regulations as

determined by the NCUA Board. In nonexempt states, all required NCUA reviews and approvals will be handled in coordination with the state credit union supervisory authority; and

(b) Adhere to the requirements stated in part 722 of this chapter concerning appraisals.

§ 741.204 Maximum public unit and nonmember accounts, and low-income designation.

Any credit union that is insured, or that makes application for insurance, pursuant to Title II of the Act must:

(a) Adhere to the requirements of § 701.32 of this chapter regarding public unit and nonmember accounts, provided it has the authority to accept such accounts. Requests by federally insured state-chartered credit unions for an exemption from the limitation of § 701.32 of this chapter will be made and reviewed on the same basis as that provided in § 701.32 of this chapter for federal credit unions, provided, however that NCUA will not grant an exemption without the concurrence of the appropriate state regulator.

(b) Obtain a low-income designation in order to accept nonmember accounts, other than from public units or other credit unions, provided it has the authority to accept such accounts under state law. The state regulator shall make the low-income designation with the concurrence of the appropriate regional director. The designation will be made and reviewed by the state regulator on the same basis as that provided in § 701.32(d) of this chapter for federal credit unions. Removal of the designation by the state regulator for such credit unions shall be with the concurrence of NCUA.

§ 741.205 Reporting requirements for credit unions that are newly chartered or in troubled condition.

Any federally insured credit union chartered for less than 2 years or any credit union defined to be in troubled condition as set forth in § 701.14(b)(3) of this chapter must adhere to the requirements stated in § 701.14(c) of this chapter concerning the prior notice and NCUA review. Federally insured state-chartered credit unions must submit required information to both the appropriate NCUA Regional Director and their state supervisor. NCUA will consult with the state supervisor before making its determination pursuant to § 701.14 (d)(2) and (f) of this chapter. NCUA will notify the state supervisor of its approval/disapproval no later than the time that it notifies the affected individual pursuant to § 701.14(d)(1) of this chapter.

§ 741.206 Corporate credit unions.

Any corporate credit union insured pursuant to Title II of the Act shall adhere to the requirements of part 704 of this chapter.

§ 741.207 Community development revolving loan program for credit unions.

Any credit union which is insured pursuant to Title II of the Act and is a "participating credit union," as defined in § 705.3 of this chapter, shall adhere to the requirements stated in part 705 of this chapter.

§ 741.208 Mergers of federally insured credit unions: voluntary termination or conversion of insured status.

Any credit union which is insured pursuant to Title II of the Act and which merges with another credit union or non-credit union institution, and any state-chartered credit union which voluntarily terminates its status as a federally-insured credit union, or converts from federal insurance to other insurance from a government or private source authorized to insure member accounts, shall adhere to the applicable requirements stated in section 206 of the Act and parts 708a and 708b of this chapter concerning mergers and voluntary termination or conversion of insured status.

§ 741.209 Management official interlocks.

Any credit union which is insured pursuant to Title II of the Act shall adhere to the requirements stated in part 711 of this chapter concerning management official interlocks, issued under the provisions of the Depository Institution Management Interlocks Act (12 U.S.C. 3201 et seq.).

§ 741.210 Central liquidity facility.

Any credit union which is insured pursuant to Title II of the Act and is a member of the Central Liquidity Facility, shall adhere to the requirements stated in part 725 of this chapter.

§ 741.211 Advertising.

Any credit union which is insured pursuant to Title II of the Act shall adhere to the requirements prescribed by part 740 of this chapter.

§ 741.212 Share insurance.

(a) Member share accounts received by any credit union which is insured pursuant to Title II of the Act in its usual course of business, including regular shares, share certificates, and share draft accounts, are insured subject to the limitations and rules in subpart A of part 745 of this chapter.

(b) The payment of share insurance and the appeal process applicable to any

credit union which is insured pursuant to Title II of the Act are addressed in subpart B of part 745 of this chapter.

§ 741.213 Administrative actions, adjudicative hearings, rules of practice and procedure.

Any credit union which is insured pursuant to Title II of the Act shall adhere to the applicable rules of practice and procedures for administrative actions and adjudicative hearings prescribed by part 747 of this chapter. Subpart E of part 747 of this chapter applies only to federal credit unions.

§ 741.214 Report of crime or catastrophic act and Bank Secrecy Act compliance.

Any credit union which is insured pursuant to Title II of the Act shall adhere to the requirements stated in part 748 of this chapter.

§ 741.215 Records preservation program.

Any credit union which is insured pursuant to Title II of the Act shall maintain a records preservation program as prescribed by part 749 of this chapter.

§ 741.216 Flood insurance.

Any credit union which is insured pursuant to Title II of the Act shall adhere to the requirements stated in part 760 of this chapter.

§ 741.217 Truth in savings.

Any credit union which is insured pursuant to Title II of the Act shall adhere to the requirements stated in part 707 of this chapter.

§ 741.218 Involuntary liquidation and creditor claims.

Any credit union which is insured pursuant to Title II of the Act shall adhere to the applicable provisions in part 709 of this chapter. Section 709.3 of this chapter applies only to federal credit unions.

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DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 35**

[Docket No. 94-ANE-50; Notice No. 35-ANE-01]

Special Conditions; Hamilton Standard Model 247F Propeller

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are issued for Hamilton Standard Model

247F propeller with electronic propeller and pitch control system. The applicable regulations currently do not contain adequate or appropriate safety standards for constant speed propellers with electronic propeller and pitch control. These special conditions contain the additional safety standards which the Administrator considers necessary to establish a level of safety equivalent to that established by the airworthiness standards of part 35 of the Federal Aviation Regulations (FAR).

EFFECTIVE DATE: December 28, 1995.

FOR FURTHER INFORMATION CONTACT: Martin Buckman, Engine and Propeller Standards Staff, ANE-110, Engine and Propeller Directorate, Aircraft Certification Service, FAA, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803-5229; telephone (617) 238-7112; fax (617) 238-7199.

SUPPLEMENTARY INFORMATION:**Background**

On March 8, 1993, Hamilton Standard applied for an amendment to the type certificate of Model 247F propeller. The new propeller would use a new electronic propeller and pitch control system in place of the primary governor control and synchrophaser unit.

The existing propeller pitch control is normally monitored by a governor which senses propeller speed and adjusts the pitch to absorb the engine power and therefore maintains the propeller at the correct RPM. When the primary governor fails, the propeller pitch is controlled by an overspeed governor. This type of system is conventional and its airworthiness considerations are addressed by part 35 of the FAR's.

The FAA has determined that special conditions are necessary to certificate a Hamilton Standard electronic propeller and pitch control in place of the primary governor control and synchrophaser unit for the Model 247F propeller. This control is designed to operate with existing mechanical and hydraulic interface of the engine and propeller. Electronic propeller and pitch controls introduce potential failures that can result in unsafe conditions. These types of failures are not addressed by the requirements of part 35. These failures can lead to the following possible unsafe conditions:

- (1) Loss of control of the propeller,
- (2) Instability of a critical function,
- (3) Unwanted change in propeller pitch causing improper thrust/overspeed, and
- (4) Unwanted action of a critical control function resulting in propeller flat pitch or reverse.